



COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

COUNCIL MEMBERS	REDEVELOPMENT AGENCY
Dennis Kennedy, Mayor	Dennis Kennedy, Chair
Mark Grzan, Mayor Pro Tempore	Mark Grzan, Vice-Chair
Larry Carr, Council Member	Larry Carr, Agency Member
Greg Sellers, Council Member	Greg Sellers, Agency Member
Steve Tate, Council Member	Steve Tate, Agency Member

WEDNESDAY, FEBRUARY 15, 2006

AGENDA

JOINT MEETING

CITY COUNCIL SPECIAL AND REGULAR MEETING

and

REDEVELOPMENT AGENCY SPECIAL MEETING

6:00 P.M.

A Special Meeting of the City Council and Redevelopment Agency is Called at 6:00 P.M. for the Purpose of Conducting Closed Sessions; and a Special Redevelopment Agency Meeting is called at 7:00 P.M. for Conducting Redevelopment Agency Business.

Dennis Kennedy, Mayor/Chairman

CALL TO ORDER

(Mayor/Chairperson Kennedy)

ROLL CALL ATTENDANCE

(City Clerk/Agency Secretary Torrez)

DECLARATION OF POSTING OF AGENDA

Per Government Code 54954.2

(City Clerk/Agency Secretary Torrez)

6:00 P.M.

City Council Action and Redevelopment Agency Action

CLOSED SESSION:

1.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Government Code Section 54956.9(a)
Case Name: General Lighting Service, Inc. v. Wells Construction Group, et al. [Consolidated Actions]
Case Number: Santa Clara County Superior Court, Lead Case No. 1-04-CV-025561
Attendees: City Manager, Interim City Attorney

2.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Government Code Section 54956.9(a)
Case Name: Berkman v. City of Morgan Hill et al.
Case Number: Santa Clara County Superior Court, 1-04-CV-031021
Attendees: City Manager, Interim City Attorney

3.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Authority: Pursuant to Government Code 54956.9(a)
Case Name: Tichinin v. City of Morgan Hill
Case Number: Santa Clara County Superior Court, Case No. 1-05-CV-046112
Attendees: City Manager; Interim City Attorney

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

RECONVENE

CLOSED SESSION ANNOUNCEMENT

7:00 P.M.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

RECOGNITION

Officer Eric Mosunic, Recipient of the California Highway Patrol "10851" Pin
Police Chief Cumming

INTRODUCTION

Ryan Klemencic, PW Engineering Aide
Public Works Director Ashcraft

CITY COUNCIL REPORT

Mayor Pro Tempore Grzan

CITY COUNCIL SUB-COMMITTEE REPORTS

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

PUBLIC COMMENT

NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.

(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME
THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND
PRESENT IT TO THE CITY CLERK.**

(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE
CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY
COUNCIL/REDEVELOPMENT AGENCY.**

City Council Action

CONSENT CALENDAR:

ITEMS 1-11

The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

Time Estimate

Page

Consent Calendar: 1 - 10 Minutes

1. **INDOOR RECREATION CENTER (IRC) PROJECT – JANUARY CONSTRUCTION PROGRESS REPORT** 1
Recommended Action(s): Information Only.
2. **SECOND AMENDMENT TO SAN PEDRO PONDS JOINT USE AGREEMENT**..... 9
Recommended Action(s): Approve the Second Amendment to the Joint Use Agreement with the Santa Clara Valley Water District, Subject to City Attorney and City Manager Approval.
3. **AGREEMENT BETWEEN CITY OF MORGAN HILL AND SANTA CLARA COUNTY FOR OBTAINING ORTHOPHOTO AERIAL PHOTOGRAPHS** 11
Recommended Action(s): Authorize the City Manager, Subject to City Attorney Review and Approval, to Execute an Agreement with the County of Santa Clara for Obtaining Orthophoto Aerial Photographs of the City of Morgan Hill at a Cost of \$17,073.
4. **CONSULTING AGREEMENT FOR SUB-REGIONAL FIRE SERVICE STUDY**..... 13
Recommended Action(s): Authorize the City Manager to Execute Contract with Citygate Associates for the Purpose of Conducting a Study on Sub-Regional Fire Service.

Time Estimate
Consent Calendar: 1 - 10 Minutes

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5. **RECRUITMENT EFFORTS TO FILL UPCOMING VACANCIES TO BOARDS AND COMMISSIONS, AND EXTEND TERMS OF OFFICE** 25
Recommended Action(s):
 1. **Establish** February 2006 as Recruitment and April 2006 to Interview/Appoint to Fill Vacancies on the Library, Culture & Arts Commission and Parks & Recreation Commission;
 2. **Establish** April 2006 as Recruitment and May 2006 to Interview/Appoint to Fill Vacancies on the Architectural & Site Review Board (ARB), Mobile Home Rent Commission, and Senior Advisory Commission;
 3. **Direct** Staff Regarding Questions the Council would like Added to the Applications, if any; and
 4. **Extend** the Terms of Office for Library, Culture & Arts and Parks & Recreation Commissioners until such Time as the Council Concludes the Interview and Appointment Process; **Directing** the City Clerk to Notify the Commissioners of their Term Extension.

6. **RESOLUTION OF INTENT TO VACATE A PORTION OF TAYLOR AVENUE AND SETTING TIME AND PLACE FOR THE PUBLIC HEARING.**..... 43
Recommended Action(s):
 1. **Adopt** the Resolution of Intent to Vacate a Portion of Taylor Avenue; Thereby Setting March 15, 2006 at 7:00 P.M. in the Council Chambers as the Time and Date for the Public Hearing; and
 2. **Direct** the City Clerk to Publish the Adopted Resolution of Intent as Required by State Law.

7. **RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) 2005 QUARTERLY REPORT #4**..... 57
Recommended Action(s): **Accept** and **File** Fourth Quarter Report for 2005.

8. **ADOPT ORDINANCE NO. 1754, NEW SERIES**71
Recommended Action(s): **Waive** the Reading, and **Adopt** Ordinance No. 1754, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1733, NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP 02-06: EAST DUNNE-DEMPSEY (DELCO) ALLOWING FOR A SIX MONTH EXTENSION OF TIME FOR SUBMITTING AND OBTAINING BUILDING PERMITS FOR 8 ALLOCATIONS RECEIVED IN THE 2003 RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) COMPETITION. (APNS 817-11-067 & 817-11-072).**

9. **ADOPT ORDINANCE NO. 1755, NEW SERIES**77
Recommended Action(s): **Waive** the Reading, and **Adopt** Ordinance No. 1755, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT TO ESTABLISH AN R-2 3,500/RESIDENTIAL PLANNED DEVELOPMENT ON A 7.5 ACRE SITE LOCATED ON THE NORTH SIDE OF EAST CENTRAL AVENUE AT THE NORTHERLY TERMINATION OF CALLE MAZATAN. (APN 726-26-004).**

10. **ADOPT ORDINANCE NO. 1756, NEW SERIES**83
Recommended Action(s): **Waive** the Reading, and **Adopt** Ordinance No. 1756, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT APPLICATION DA-05-05 FOR APPLICATION MP 04-14: CENTRAL-HU (DELCO) (APN 726-26-004).**

Time Estimate **Page**
Consent Calendar: 1 - 10 Minutes

11. **USE OF THE FLOATING DATE FOR A GENERAL PLAN AMENDMENT REQUEST INVOLVING A VACANT 2.66 ACRE PACEL ADJACENT TO AND NORTHERLY OF THE WALNUT GROVE DRIVE/LAUREL ROAD INTERSECTION** 87
Recommended Action(s): Direct Staff to Utilize the Floating Date, if Necessary, for a General Plan Amendment Request Involving a 2.66 Acre Vacant Parcel Adjacent to and Northerly of the Walnut Grove Drive/Laurel Road Intersection.

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

ITEMS 12-16

Time Estimate **Page**
Consent Calendar: 1 - 10 Minutes

12. **RESOLUTIONS TO AUTHORIZE THE DEPOSIT AND WITHDRAWAL OF MONIES IN THE LOCAL AGENCY INVESTMENT FUND (LAIF)** 91
Recommended Action(s):
1. Acting as City Council, Adopt Resolution Authorizing Officers/Employees, and their Successors, to Deposit and Withdraw Monies in the Local Agency Investment Fund.
2. Acting as Redevelopment Agency Board, Adopt Resolution Authorizing Officers/Employees, and their Successors, to Deposit and Withdraw Monies in the Local Agency Investment Fund.
13. **APPROVE JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF JANUARY 20, 2006** 97
14. **APPROVE JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF JANUARY 21, 2006** 99
15. **APPROVE ADJOURNED JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF JANUARY 25, 2006** 101
16. **APPROVE JOINT REGULAR REDEVELOPMENT AGENCY AND SPECIAL CITY COUNCIL MEETING MINUTES OF JANUARY 25, 2006** 109

City Council Action (Continued)

CONSENT CALENDAR:

ITEMS 17-19

Time Estimate **Page**
Consent Calendar: 1 - 10 Minutes

17. **ACCEPTANCE OF PEDESTRIAN CROSSING IMPROVEMENTS AT MONTEREY ROAD AND CENTRAL AVENUE** 121
Recommended Action(s):
1. Accept as Complete the Pedestrian Crossing Improvements at Monterey Road and Central Avenue Project in the Final Amount of \$237,882; and
2. Direct the City Clerk to File the Notice of Completion with the County Recorder's Office.

Time Estimate

Consent Calendar: 1 - 10 Minutes

Page

18. **ADOPT ORDINANCE NO. 1752, NEW SERIES**125
Recommended Action(s): Waive the Reading, and **Adopt** Ordinance No. 1752, New Series, and **Declare**
That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title
and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT TO ESTABLISH AN R-2
3,500/RESIDENTIAL PLANNED DEVELOPMENT ON A 2.65 ACRE SITE LOCATED ON THE
NORTHWEST CORNER OF THE INTERSECTION OF WRIGHT AVENUE AND HALE
AVENUE. (APNs 764-32-017 & 018).**
19. **ADOPT ORDINANCE NO. 1753, NEW SERIES**131
Recommended Action(s): Waive the Reading, and **Adopt** Ordinance No. 1753, New Series, and **Declare**
That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title
and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT APPLICATION DA-
05-07 FOR APPLICATION MP 04-27: Wright Avenue - Dividend (APN 764-32-017 & 018).**

City Council Action

PUBLIC HEARINGS:

Time Estimate

Page

20. **5 Minutes** **DEVELOPMENT AGREEMENT AMENDMENT, DAA-03-11: SAN PEDRO-
DICONZA**135
Public Hearing Opened.
Please Limit Your Remarks to 3 Minutes. Public Hearing Closed
Council Discussion.
Action- **Motion to Waive** the Reading in Full of Development Agreement
Amendment Ordinance.
Action- **Motion to Introduce** Ordinance by Title Only. (Roll Call Vote)
21. **5 Minutes** **ZONING AMENDMENT, ZAA-98-01: EAST DUNNE-SHAW**147
Public Hearing Opened.
Please Limit Your Remarks to 3 Minutes. Public Hearing Closed
Council Discussion.
Action- **Motion to Waive** the Reading in Full of Zoning Amendment Ordinance.
Action- **Motion to Introduce** Ordinance by Title Only. (Roll Call Vote)
22. **10 Minutes** **ZONING AMENDMENT, ZA-05-13/ DEVELOPMENT AGREEMENT DA-05-12:
SAN PEDRO-AHMADI**159
Public Hearing Opened.
Please Limit Your Remarks to 3 Minutes. Public Hearing Closed
Council Discussion.
Action- **Motion to Waive** the Reading in Full of Zoning Amendment Ordinance.
Action- **Motion to Introduce** Ordinance by Title Only. (Roll Call Vote)
Action- **Motion to Waive** the Reading in Full of Development Agreement
Ordinance.
Action- **Motion to Introduce** Ordinance by Title Only. (Roll Call Vote)

City Council Action

OTHER BUSINESS:

	Time Estimate		Page
23.	45 Minutes	<u>INDOOR RECREATION CENTER (IRC) MARKET STUDY AND OPERATING MODEL</u> <u>Recommended Action(s):</u> 1. <u>Receive</u> Results of the Market Study on Possible Partnership Operating Model for the Indoor Recreation Center; and 2. <u>Provide Direction</u> to Staff Regarding the Implementation of the Operating Model for the Indoor Recreation Center: a) IRC/YMCA Partnership Model b) City-Only Model with Partnership Model Assumptions c) Some Other Model	191
24.	5 Minutes	<u>IMPACT FEE ORDINANCE AND RESOLUTIONS</u> <u>Recommended Action(s):</u> 1. <u>Motion to Waive</u> the Reading in Full of Ordinance Amending Chapter 3.56 of the Municipal Code. 2. <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote) 3. <u>Adopt</u> Resolution Establishing a Revised City Deferral Program for Traffic, Sewer and Utility Undergrounding In-Lieu Impact Fees; and 4. <u>Adopt</u> Resolution Authorizing Applicants of Building Permits Submitted After July 1, 2005, but not yet issued, to take Advantage of Section 3.56.065 (Exemption from Fee Increase) Established by the Ordinance (Actions 1 and 2, above); and to Participate in the Revised City Deferral Program set forth by the Resolution in Action 3, above.	259
25.	5 Minutes	<u>KIDDY ACADEMY IMPACT FEE AGREEMENT AND DEFERRAL</u> <u>Recommended Action(s):</u> 1. <u>Authorize</u> the City Manager to Modify the Terms of the Impact Fee Agreement for 16750 Monterey Road/Kiddy Academy to Base the Traffic Impact Fees on 84 Children; and 2. <u>Authorize</u> the Business Owners of the Kiddy Academy to Participate in the City's New Impact Fee Deferral Program, with Total Impact Fees Not to Exceed \$138,166.	269

Redevelopment Agency Action

OTHER BUSINESS:

	Time Estimate		Page
26.	10 Minutes	<u>DISCLOSURE OF PROPERTY OWNERSHIP OR INTEREST BY REDEVELOPMENT AGENCY BOARD MEMBERS</u> <u>Recommended Action(s): Authorize</u> the Redevelopment Agency Board to: 1. <u>Accept</u> Disclosure of Property Interest Statements from Agency Members Carr and Sellers; and 2. <u>Adopt</u> Resolution Certifying that no Work Needs to be Done on Agency Member Carr's Residence.	271

OTHER BUSINESS:

	Time Estimate		Page
27.	5 Minutes	<u>REDEVELOPMENT PLAN AMENDMENT CONSULTANT</u>	275
		<u>Recommended Action(s):</u> <u>Authorize</u> the Executive Director to Execute a Contract with GRC Redevelopment Consultants, Inc., in an Amount not to Exceed \$250,800 to Perform all Work Necessary to Prepare the Second Amendment to the Redevelopment Plan for the Ojo de Agua Community Development Project Area, Subject to Agency General Counsel Approval.	

City Council and Redevelopment Agency Action

OTHER BUSINESS:

	Time Estimate		Page
28.	5 Minutes	<u>AMENDMENT TO TITLE 2, SECTION 2.04.010 OF THE MORGAN HILL MUNICIPAL CODE AND AMENDMENT TO THE AMENDED AND RESTATED BYLAWS OF THE REDEVELOPMENT AGENCY, ESTABLISHING REGULAR MEETING DATES</u>	303
		<u>Recommended Action(s):</u>	
		<u>Acting as City Council:</u>	
		Action- <u>Motion to Waive</u> the Reading in Full of Ordinance.	
		Action- <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote)	
		<u>Acting as Redevelopment Agency Board:</u>	
		Action- <u>Approve</u> the Proposed Amendments to the <i>Amended and Restated Bylaws of the Redevelopment Agency of the City of Morgan Hill</i>	
29.	5 Minutes	<u>CITY COUNCIL/REDEVELOPMENT AGENCY UPCOMING AND SUMMER MEETING SCHEDULE</u>	313
		<u>Recommended Action(s):</u> <u>Discuss</u> and <u>Provide Direction</u> Regarding the Upcoming and Summer Meeting Schedule.	

City Council Action (Continued)

OTHER BUSINESS:

	Time Estimate		Page
30.	10 Minutes	<u>OUTSIDE AGENCY ASSIGNMENTS</u>	319
		<u>Recommended Action(s):</u>	
		1. <u>Review</u> the Current List of Assignments and Appointments and make Suggested Changes to the Mayor, Considering the Recommendation of Aligning Outside Assignments with Council Committee Assignments;	
		2. Mayor to <u>Appoint</u> Council Members to Outside Agencies, Subject to Council Approval; and	
		3. <u>Direct</u> the City Clerk to Notify the Appropriate Agencies of Amended Assignments.	

FUTURE COUNCIL-INITIATED AGENDA ITEMS:

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

ADJOURNMENT

PUBLIC COMMENTS ON ITEMS *NOT* APPEARING ON AGENDA

Following the opening of Council/Agency business, the public may present comments on items *NOT* appearing on the agenda that are within the Council's/Agency's jurisdiction. Should your comments require Council/Agency action, your request will be placed on the next appropriate agenda. No Council/Agency discussion or action may be taken until your item appears on a future agenda. You may contact the City Clerk/Agency Secretary for specific time and dates. This procedure is in compliance with the California Public Meeting Law (Brown Act) G.C. 54950.5. Please limit your presentation to three (3) minutes.

PUBLIC COMMENTS ON ITEMS APPEARING ON AGENDA

The Morgan Hill City Council/Redevelopment Agency welcomes comments from all individuals on any agenda item being considered by the City Council/Redevelopment Agency. Please complete a Speaker Card and present it to the City Clerk/Agency Secretary. This will assist the Council/Agency Members in hearing your comments at the appropriate time. Speaker cards are available on the table in the foyer of the Council Chambers. In accordance with Government Code 54953.3 it is not a requirement to fill out a speaker card in order to speak to the Council/Agency. However, it is very helpful to the Council/Agency if speaker cards are submitted. As your name is called by the Mayor/Chairman, please walk to the podium and speak directly into the microphone. Clearly state your name and address and then proceed to comment on the agenda item. In the interest of brevity and timeliness and to ensure the participation of all those desiring an opportunity to speak, comments presented to the City Council/Agency Commission are limited to three minutes. We appreciate your cooperation.

NOTICE

AMERICANS WITH DISABILITIES ACT (ADA)

The City of Morgan Hill complies with the Americans with Disability Act (ADA) and will provide reasonable accommodation to individuals with disabilities to ensure equal access to all facilities, programs and services offered by the City. If you need special assistance to access the meeting room or to otherwise participate at this meeting, including auxiliary aids or services, please contact the Office of the City Clerk/Agency Secretary at City Hall, 17555 Peak Avenue or call 779-7259 or (Hearing Impaired only - TDD 776-7381) to request accommodation. Please make your request at least 48 hours prior to the meeting to enable staff to implement reasonable arrangements to assure accessibility to the meeting.

If assistance is needed regarding any item appearing on the City Council/Agency Commission agenda, please contact the Office of the City Clerk/Agency Secretary at City Hall, 17555 Peak Avenue or call 779-7259 or (Hearing Impaired only - TDD 776-7381) to request accommodation.

NOTICE

Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the City Council/Agency Commission at, or prior to the Public Hearing on these matters.

NOTICE

The time within which judicial review must be sought of the action by the City Council/Agency Commission which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.